

MUNICIPAL FACILITIES REVOLVING LOAN FUND DEPARTMENT OF ENVIRONMENTAL QUALITY STATE OF LOUISIANA ANNUAL REPORT FOR STATE FISCAL YEAR 2008

INTRODUCTION

The Louisiana Department of Environmental Quality (LDEQ) is a department within the Executive Branch of Government for the State of Louisiana. In compliance with the Environmental Protection Agency (EPA) rules and regulations and federal grant requirements, LDEQ submits the State Revolving Loan Fund Annual Report for the State's fiscal year ending June 30, 2008 (FY 08). This report describes how the State of Louisiana has met the goals and objectives identified in its Intended Use Plan (IUP) and grant agreement.

The Financial Services Division and the Municipal Facilities Engineering Section within LDEQ are responsible for the operations of the Municipal Facilities Revolving Loan Fund (MFRLF) Program in the State of Louisiana. These groups within LDEQ provide assistance to municipalities in the development, financing and implementation of wastewater treatment management plans and plants. Engineering oversight, design review, inspection services, and environmental assessment services are provided by the Municipal Facilities Engineering Section and grant management, program administration and financial services are provided by the Financial Services Division. All efforts are directed toward improving water quality by assisting communities in providing wastewater treatment processes that meet established effluent limits and achieve the goals of the Clean Water Act.

EXECUTIVE SUMMARY

The MFRLF has been awarded 18 federal grants from EPA. These grants are available through the EPA's Automated Clearing House Payment System (ACH) and the Automated Standard Application for Payments (ASAP). These grants are authorized by Title VI of the Clean Water Act, as amended in 1987 and require matching funds from the state. As of June 30, 2008, the EPA has awarded grants of \$285,815,768 to the state, including \$15,000 of in kind dollars, of which \$264,111,213 has been drawn for loans and administrative expenses. The state has provided matching funds of \$57,091,806. (Note 7)

The State of Louisiana has provided its required state match on estimated Federal grant awards in various ways including cash appropriations, a State Letter of Credit (LOC), a Match Bond issue and Tobacco Settlement Revenues. The State has deposited a total of \$57,091,806 in State Match into the fund. The CWSRF has secured matching funds through the issuance of additional revenue bonds in FY 08.

Under the terms of the grants, four percent (4%) of the federal award is allocated to fund the administrative costs of operating the Program. At June 30, 2008, a balance of \$608,479 (note 8) in unexpended 4% funds was available for program administration. Also, an administrative fee of 0.5% is assessed on all outstanding loan balances. These fees are collected and held outside

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the MFRLF to administer the program set aside generated by the capitalization grant is no longer available or other water quality management projects allowed by the fund.

MFRLF operates as a direct loan program where Federal and State monies are lent directly to municipalities.

GOAL STATEMENTS

A. Long-Term Goals

The CWSRF continues to maintain long-term goals to ensure it assists the State in meeting water quality goals and ensure the long-range integrity of the fund.

Goal 1: To achieve statewide compliance with Federal and State water quality standards by providing financial assistance to municipalities and other qualified recipients.

LDEQ strives to make communities across the state aware of the MFRLF program as a means of assistance available to them in maintaining compliance with the Clean Water Act. LDEQ also works with Rural Utilities, Community Block Grants, and the Governor's Office of Rural Development, jointly funding projects throughout the state.

LDEQ participates in the newly formed Louisiana Waste Water Joint Funding Committee (LWWJFC) meetings with is a joint effort between the Community Block Grants, US Department of Agriculture, Louisiana Department of Health and Hospitals, and LDEQ. The mission of the LWWJFC is to assist applicants in securing financing for water and wastewater projects. This is accomplished by all agencies participating in a review of the project information and then providing applicants with information as to which funding programs could provide assistance for their projects. We advise the applicants of where a particular project meets eligibility requirements and to open the doors of potential applicants with all funding agencies. The LWWJFC will meet periodically in the year to review intent to file applications for waste water projects in Louisiana. These projects will include those applying for both grant and loan dollars. LDEQ will be able to respond to all communities how we can assist with their projects. To date we have made no offer of financing from this committee, but we believe that working in unison with the other loan programs will offer further promotion of our program that will result in loans.

Goal 2: To promote expanded eligibility under Title VI of the Clean Water Act that allows financial assistance for additional project categories. These additional project categories include non-point sources, reconstruction of facilities, facilities needed to accommodate population growth, estuary, and groundwater-related needs.

During FY2008 the CWSRF staff promoted the wetland assimilation process as a means eliminating discharges to waterways, and also as a means of enhancing and improving

wetlands to provide better hurricane protection. To date we have received two pre-applications that would employ wetland assimilation and have promoted these type projects to numerous borrowers.

Working with the Water Permits Division, and the CWSRF staff, LDEQ used a portion of the administrative fees collected on CWSRF loans to hire a contractor to conduct wetland assimilation feasibility studies for local communities that might be interested in the process but are unable to do the studies themselves. The contract was awarded to Providence Engineering. To date, two studies have been complete: the Town of Urania and the Town of Leconte. Several more studies have been proposed and will be done during the next two years and we are hopeful that some CWSRF projects will result from them.

Goal 3: To maintain the fiscal integrity of the Fund and to assure its continuous enhancements in perpetuity through maintaining net assets equal to federal capitalization grants and state matching funds and the use of a cash flow modeling plan.

The MFRLF prepares and maintains its accounting records on the full accrual basis with accounting principles generally accepted in the United States as applied to governmental units. Annually the Office of the Legislative Auditor of the State of Louisiana performs an audit on the MFRLF in accordance with Governmental Auditing Standards.

Also, a cash flow model is used to predict revenues and expenses over time allowing better management of program assets helping ensure perpetuity of the fund.

B. Short-Term Goals

The Department will pursue the following short-term goals in an effort to continually improve the CWSRF program.

Goal 1: To promote the benefits of the program to as many communities as possible, including those impacted by Hurricanes Katrina and Rita. The Department continues working with the Louisiana Municipal Association, the Louisiana Police Jury Association, Rural Utility Service and Community Development Block Grant and the Louisiana Recovery Authority to identify prospective borrowers and gaps in needed financing. This also included participation in the Federal Funding Open House held at LDEQ and follow-up visits to interested communities.

The LDEQ staff participated in the annual conferences for the Louisiana Police Jury Association meeting and the Louisiana Municipal Association by displaying a booth to promote the SRF to local communities. Staff visited 7 communities to promote financing options. The LDEQ Secretary attended these conferences as a speaker where he presented loan opportunities for municipalities.

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Goal 2: To offer more favorable financing terms by offering:

- **Below market interest rate of 2.95%**

The LDEQ monitors the current Bond Buyer rates and will make recommendations based on those rates. Currently our rate is below market rate.

- **A reduction of costs by allowing borrowers to utilize the services of our bond counselors to provide all documentation, proceedings and opinions, allowing the borrower to save approximately one third of the bond counsel fees, if they so choose.**

This option is available to all borrowers and in FY2008; Westwego took advantage of this offer and saved approximately 50% in bond closing costs.

- **Allowing financing for 30 years for communities that qualify under LDEQ's proposed "Extended Term Financing Policy" currently under consideration at EPA Region 6**

LDEQ submitted our proposed 30 Extended Term Financing Policy. However it is under review and development with Region 6 and LDEQ Financial Services staff.

Goal 3: To work to assure coordination of activities between the CWSRF and the LDEQ Enforcement Division to bring at least 5 communities listed in this plan into compliance in accordance with Section 301(I) (I) of the Act.

LDEQ engineering staff meets regularly with enforcement staff in attempts to bring communities into compliance. One option made available to communities is offering low interest loans through the SRF.

Goal 4: Secure two (2) binding commitment to communities visited during the year and seven (7) loan agreements for the projects identified for assistance on page one of this IUP.

LDEQ closed on one loan in FY08 for the City of Westwego. We believe the reduction of loans closed is a direct result of Hurricanes Katrina.

Goal 5: The Division anticipates applying for the FY 2008 Capitalization Grant in SFY 2009.

LDEQ will be applying for the FY2008 allotment by June 30, 2009.

DETAILS OF ACCOMPLISHMENTS

A. Fund Financial Status

1. Loans Awarded - The State of Louisiana finalized one loan totaling \$2,500,000 in FY 08 to Westwego.
2. Binding Commitments - The LDEQ had no binding commitments in FY2008.
3. Sources of Funds - A total of \$7,875,314 (Note 7) in grant funds was drawn and made available to the State during FY 08. This fund was drawn from Grant # CS-220002-05 and CS-220002-06. The remaining grant balance for FY 08 is \$21,704,555 (note 7). Other funds available in FY08 were \$11,129,654 from principal repayments (exhibit 2), \$5,418,659 interest earned on cash in state treasury, and \$7,433,754 interest on outstanding loan balances.
4. Expenses and Bonds issued – The MFRLF incurred administrative expenses of \$371,578 in FY 08. (Note 8)

B. Assistance Activity

Exhibits 1 through 3 illustrate the assistance level and financial activity of the MFRLF for FY 08. These exhibits reflect changes to the IUP for communities that are actively involved in the formal loan application process.

Exhibit 1A shows projects that the MFRLF has funded, or will fund using MFRLF monies. Exhibit 1B provides data on the State's binding commitment requirements. Exhibit 2 shows principal collections from borrowers during FY 08, and finally exhibit 3 shows disbursements made during FY 08 to loan projects for design and construction.

C. Provision of the Operating Agreement / Conditions of the Grant

The State of Louisiana agreed to several conditions in the Operating or Grant Agreements. The following conditions have been met and are self-explanatory:

1. Agreement to Accept Payments
2. State Laws and Procedures
3. Use of the ACH and ASAP
4. Annual Audit
5. Annual Report
6. Annual Review

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The following conditions are described more fully below:

1. Provide a State Match

Eighteen grants totaling \$285,815,768 have been awarded to the State of Louisiana. The State of Louisiana has provided the required state match on estimated federal grant awards in various ways including cash appropriations from the General Fund, a State Capital Outlay Letter of Credit (LOC), and Tobacco Settlement Revenues. A total of \$26,753,586 in State matching funds has been made available to the Fund from these sources (Note 7).

In FY 1995, Louisiana received EPA approval to issue up to \$15,000,000 in state match revenue bonds secured by revenues of the Fund. This state match financing arrangement was similar to a letter of credit in that bond funds were available to be drawn as needed. Bond funds are immediately deposited into the SRF fund when drawn. In FY 02 the state set up bonds of up to \$12,000,000 that were issued as state match. Another bond agreement in the amount of 10,000,000 was made in FY 07, of which \$4,000,000 were issued during FY07. As of June 30, 2008, \$30,338,220 in net proceeds from these bond issues was deposited into the fund as state match. No liability exists for these bonds at June 30, 2008.

The State has deposited sufficient cash into the Fund to meet its proportionate share prior to accessing grant monies made available through the Federal ACH. The cumulative amount deposited into the Fund for State Match is \$57,091,806. The CWSRF is in the process of securing more matching funds through the issuance of additional revenue bonds in FY 08.

2. Binding Commitments Within One Year

The state had required commitments of \$17,823,840 for the first federal quarter and no other requirements for the year. The state had no binding commitments. Although the State did not meet its binding commitment requirements during this reporting period, the cumulative commitments are \$476,460,530. The cumulative commitments requirements are \$347,624,002. The result is an excess of \$128,830,530 of actual binding commitments over required binding commitments. Exhibit 1B provides information on binding commitment activity.

3. Timely and Expeditious Expenditures

The State of Louisiana disbursed all cash draws and other available MFRLF funds in a timely and expeditious manner. The LDEQ is monitoring projects to ensure timely initiation of operations in accordance with the established schedules.

4. First Use of Funds for Enforceable Requirements

The first use requirements have been met. All National Municipal Projects in Louisiana are in categories identified in 40 CFR 35.3135(e) (3). In the event that any of the National Municipal Projects are no longer in compliance, and the equivalency requirements have not been met for all capitalization grants, then such projects shall be offered assistance through the MFRLF process before other projects.

5. Compliance with Title II Requirements

All projects in the Exhibit 1A followed by an asterisk meet equivalency requirements. Since the inception of the program twenty-one loans totaling \$79,998,000 were funded as equivalency projects that meet the Title II requirements. All Title II requirements have been met, and Title II is no longer applicable. The last Title II equivalency project was funded June 1995.

6. MBE/WBE Requirements

LDEQ monitors all loan recipients for compliance with MBE/WBE fair share efforts. The Municipal Facilities Engineering Section reviews all construction contracts prior to award to insure compliance with the six affirmative action steps and requires that contractors furnish the Department with a copy of all MBE/WBE subcontracts.

This requirement is emphasized to the loan recipients in pre-construction conference and also in the instructions for processing pay requests. MBE/WBE's usually represent small businesses that are sub-contracted to perform smaller jobs. In FY 08 a lack of sub-agreements for construction services from larger contractors resulted in no percentages of MBE/WBE's being utilized, and therefore compliance with the goals of the fair share efforts were not achieved.

7. Other Federal Authorities

The State of Louisiana and all recipients of MFRLF funds are required to comply with applicable Federal authorities and regulations. Completed loan agreements include these federal assurances.

8. State Environmental Review Process (SERP)

The State of Louisiana conducts environmental reviews in accordance with the SERP on all projects submitted for funding. There were two environmental reviews finalized in FY 07, Finding of No Significant Impact for both Westwego, and a Categorical Exclusion for Lafourche SD #1.

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9. Cash Draw and Disbursement Schedule/Commitment

Generally, loan disbursements are made by drawing Federal funds into the MFRLF before the payment is made to the local municipality. Administrative costs are paid by the State and then recovered after the administrative charges are totaled for a particular month. At the end of a fiscal year, some administrative money may be owed to the State and some pending loan disbursements may have been drawn for the Federal funds but not passed on to the local communities. At the end of FY08 \$24,082 was due from the Federal ACH because of these timing differences.

10. Accounting and Auditing Procedures

The State of Louisiana requires the LDEQ to utilize the Integrated Statewide Information System (ISIS), a comprehensive financial management system. ISIS has been designed to meet the common accounting, management, and informational needs of all departments and branches of Louisiana State Government, including the central fiscal control agencies. ISIS provides accounting, reporting, procedures, forms, cash and budgetary control over all financial transactions including the financial operations of the MFRLF loan program and other federal programs.

Beginning in FY 06, LDEQ began implementing program manager software which tracks all aspects of the MFRLF. Program Manager also provides numerous financial and tracking reports, as well as billing and forecasting functions. LDEQ is currently conducting dual entry in Program Manager to verify accuracy.

All financial transactions including accounting, fiscal and audit procedures conform to Generally Accepted Accounting Standards as promulgated by the Governmental Accounting Standards Board. For the fiscal year ending June 30, 2008, LDEQ has contracted with the Office of the Legislative Auditor in the State of Louisiana to have a financial and compliance audit conducted on its MFRLF Program. A report with an opinion on the financial statements, a report on internal controls, and a report on compliance with the Title VI of the Clean Water Act will be available subsequent to the end of the fiscal year.

Loan recipients are required to maintain adequate financial records in accordance with accounting principles generally accepted in the United States, and to make these records available to LDEQ and EPA. Annually, or biannually for small communities, as required by State law, recipients must cause an audit of their books and accounts to be made by an independent firm of certified public accountants. These audited financial statements are then submitted to LDEQ.

PROGRAM CHANGES**A. Comparison with the Intended Use Plan**

The Annual Report reflects any changes from the FY 08 IUP. Changes are due to delays by cities in submission of required project information necessary to receive MFRLF funding for loans, changes in required legal resolutions, or because communities withdrew from active pursuit of State MFRLF funding.

Seven projects were identified for funding in the FY 08 IUP. Five projects, Bossier Parish SD, Franklin, Oakdale, City of Monroe #5, and St. Tammany East & West Parish had binding commitments may close in FY 09. One loan, Westwego had a binding commitment and closed in FY 08. Lafayette has been removed from LDEQ's priority list.

B. Interest Rate

The LDEQ introduced a variable interest rate based on the Baa bond rate, plus a .5% administrative fee during FY05, which was in place until October 11, 2006. The rate increased annually on the loan until it reached 3.95%, 3.45% interest plus .5% administrative fee. For example, the Baton Rouge loan which closed on 11/5/2004 had a combined interest rate of 2.85% through 3/31/05, 3.11% through 3/31/06, 3.37% through 3/31/07, 3.63% through 3/31/08, 3.89% through 3/31/09, and 3.95% thereafter. The savings realized by the customer depends on the amount of the loan as well the timing of the draws. The first loan awarded under this plan was New Iberia on September 28, 2004 with an initial interest rate of 2.04%.

The Secretary of the Department changed the variable interest rate into a fixed interest rate of 2.95% on October 11, 2006. The interest rate on all loans closed beginning that date are stated on the loan documents as 2.45% interest plus a .50% administrative fee charged only on loan monies drawn.

PROPOSED IMPROVEMENTS

LDEQ has submitted to EPA Region 6 guidelines and procedures for offering extended financing to help make projects affordable to communities that could not afford to repay a loan in twenty years. The proposal is currently being modified to meet the requirements of EPA Headquarters. The proposed financing may benefit some small municipalities as well as areas affected by Hurricanes Katrina and Rita.

The CWSRF staff is also in contact with LDEQ Permits Division to determine where communities are planning sewer plants for possible new projects.